

FIRST REGULAR SESSION

SENATE BILL NO. 186

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Read 1st time January 18, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

0753S.02I

AN ACT

To amend chapter 324, RSMo, by adding thereto eleven new sections relating to the powers and duties of the Missouri electrical industry licensing board, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto eleven new sections, to be known as sections 324.808, 324.809, 324.810, 324.815, 324.817, 324.820, 324.825, 324.830, 324.835, 324.840, and 324.845, to read as follows:

324.808. As used in sections 324.808 to 324.845, unless the context clearly means otherwise, the following terms shall mean:

- (1) "BAT", Bureau of Apprenticeship and Training, a bureau within the United States Department of Labor;
- (2) "Board", the Missouri electrical industry licensing board;
- (3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
- (4) "Director", the director of the division of professional registration;
- (5) "Division", the division of professional registration within the department of economic development;
- (6) "Electrical contracting", engaging in the business of installing, erecting, or maintaining electrical wiring, fixtures, apparatus, equipment, devices, or components, regardless of voltage, that are used for generation, transmission, and utilization of electricity;
- (7) "Electrical contractor", a person engaged in electrical

contracting. No person, firm, corporation, institution, organization, or representative thereof shall engage in electrical contracting without having a person responsible for such work who is licensed under sections 324.808 to 324.845.

(8) "License", a valid license issued or recognized by the electrical industry licensing board;

(9) "Limited license", a valid license issued by the electrical industry licensing board that limits the political subdivisions for which the license is valid. Such license would be limited to political subdivisions in which the contractor is legally permitted to work;

(10) "Nonpublic member", an individual who represents a professional association on the board;

(11) "Person", an individual, corporation, partnership, association, or other legal entity;

(12) "Public member", an individual who represents the home builders association, who is not associated with the electrical industry, and who is a resident of the state of Missouri and has a minimum of ten years' experience in this state as a homebuilder who has constructed more than four hundred homes for citizens in the state of Missouri.

324.809. 1. There is hereby created within the division of professional registration a board to be known as the "Missouri Electrical Industry Licensing Board". The board shall consist of seven voting members including one public member, all of whom shall be citizens of the United States and domiciled within this state. The governor shall appoint the members of the board with the advice and consent of the senate for terms of four years; except as provided in subsection 3 of this section. The six nonpublic members shall hold an electrical contractor's license for at least five years immediately preceding the person's appointment to the board and shall at all times be holders of an electrical contractor license in this state. All nonpublic members shall be chosen from lists submitted by the director of the division of professional registration who shall inquire of Independent Electrical Contractors Association, Associated Builders and Contractors, and National Electrical Contractors Association, to obtain the names of individuals to be considered. The governor shall appoint nonpublic members as follows:

(1) Two members belonging to Associated Builders and Contractors;

(2) Two members belonging to the Independent Electrical Contractors Association; and

(3) Two members belonging to the National Electrical Contractors Association.

2. No person shall be eligible for reappointment to the board who has served as a member for a total of eight years. A vacancy in the office of any board member shall only be filled for the unexpired term.

3. The initial appointments to the board shall be two members for terms of two years, two members for terms of three years, two members for terms of four years, and one public member for a term of four years.

4. Any member of the board may be removed from the board by the governor for neglect of duty required by law, for incompetency or for unethical or dishonest conduct. Upon the death, resignation, disqualification, or removal of any member of the board, the governor shall appoint a successor.

324.810. 1. The board shall elect annually a chairperson and a vice chairperson from their number.

2. (1) The division, in collaboration with the board, shall adopt, implement, rescind, amend, and administer such rules and regulations as may be necessary to carry out the provisions of sections 324.808 to 324.845. The division, in collaboration with the board, may promulgate necessary rules compatible with sections 324.808 to 324.845, including, but not limited to, rules relating to professional conduct, continuing competency requirements for renewal of licenses, approval of continuing competency programs and to the establishment of ethical standards of practice for persons holding a license under sections 324.808 to 324.845.

(2) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.808 to 324.845 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,

then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

3. The board shall convene at the request of the director or as the board shall determine. The board shall hold regular meetings at least four times per year.

4. Each member of the board shall receive as compensation, an amount set by the division not to exceed fifty dollars per day, for each day devoted to the affairs of the board and may be reimbursed for actual and necessary expenses incurred in the performance of the member's official duties.

324.815. 1. For the purpose of sections 324.808 to 324.845, the division shall:

(1) Employ, within the limits of the appropriations for that purpose, employees as are necessary to carry out the provisions of sections 324.808 to 324.845;

(2) Exercise all administrative functions;

(3) Establish all applicable fees, set at an amount which shall not substantially exceed the cost of administering sections 324.808 to 324.845;

(4) Deposit all fees collected under sections 324.808 to 324.845, by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the Missouri electrical industry licensing board fund; and

(5) Approve or disapprove certifying entities for professions within the electrical industry included in the scope of sections 324.808 to 324.845.

2. The division may terminate recognition of any certifying entity included in the scope of sections 324.808 to 324.845 following a subsequent review of the certification of registration procedures of a certifying entity.

324.817. 1. Electrical contracting shall not include work done by any employee of an electric utility, gas corporation, as defined by subdivision (18) of section 386.020, RSMo, water corporation, as defined by subdivision (58) of section 386.020, RSMo, railroad corporation, a contractor who services the construction and maintenance of power lines or substations of an electric utility corporation, municipal utility, rural electric cooperative, or telecommunications companies, as defined

by subdivision (51) of section 386.020, RSMo, when engaged in work of the utility, or federally licensed radio and television broadcast stations, commercial mobile radio service providers licensed by the Federal Communications Commission under the commercial mobile radio services rules and regulations, or private broadcast engineering contractors possessing a valid Society of Broadcast Engineers certification.

2. The provisions of section 324.808 to 324.845 shall only apply to electrical contractors working with voltage in excess of fifty volts.

324.820. 1. Each electrical contracting firm shall have in its employ, at a supervisory level, at least one licensed electrical contractor.

2. The applicant applying for an electrical contractor's license shall be twenty-one years of age, a United States citizen, provide proof of insurance, and post a bond in an amount set by the board. The applicant shall have passed an electrical assessment exam which is equal to or exceeds the highest level of exam currently utilized in the state, as determined by the board, and shall be administered by a third party. The applicant shall pay for the costs of such examination and have:

(1) Completed twelve thousand verifiable practical hours installing equipment and associated wiring;

(2) Completed ten thousand verifiable practical hours installing equipment and associated wiring and received an electrical journeyman certificate from a BAT-approved electrical apprenticeship program;

(3) Received an associate's degree from a state-accredited program and eight thousand verifiable practical hours installing equipment and associated wiring;

(4) Received a four-year electrical engineering degree and four thousand verifiable practical hours installing equipment and associated wiring; or

(5) Received a limited license issued by the board and passed a board electrical assessment exam within two years of receiving the limited license.

3. The licensing requirement shall be waived for those electrical contractors who apply for a license with the board on or before December 31, 2006. Such electrical contractors shall be eligible for an

electrical contractors license as follows:

(1) Electrical contractors who currently hold an electrical license that is in good standing issued by any authority in this state that requires, prior to January 1, 2005, a written exam and the applicants have taken such exam to obtain such license shall be issued a new state electrical contractor license; or

(2) Electrical contractors who currently hold an electrical license that is in good standing issued by any authority in this state that does not require a written exam, or did not require a written exam at the time, to obtain such license may apply to the board for a limited license. Such application shall include a list of the political subdivisions for which the applicant currently practices as an electrical contractor. They must submit this application on or before December 31, 2006.

4. Notwithstanding any provision of sections 324.808 to 324.845 to the contrary, any person operating as an electrical contractor in political subdivisions where no electrical license is required to operate as such shall not be required to possess a license under sections 324.808 to 324.845 in order to continue to operate as an electrical contractor in such political subdivisions.

5. The division, in collaboration with the board, may negotiate reciprocal contracts with other states, the District of Columbia, or territories of the United States that require standards for licensure, registration, or certification considered to be equivalent or more stringent than the requirements for licensure under sections 324.808 to 324.845.

6. The state-issued electrical contractors license, issued under sections 324.808 to 324.845, shall be in lieu of local electrical contractors licenses.

324.825. The "Missouri Electrical Industry Licensing Board Fund" is hereby created. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in the Missouri electrical industry licensing board fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of appropriation from the fund for the preceding fiscal year. All fees shall be set at an amount which shall not

substantially exceed the cost of administering sections 324.808 to 324.845.

324.830. 1. The division shall mail a renewal notice to the last known address of each person licensed under sections 324.808 to 324.845 prior to the renewal date. Failure to provide the division with the information required for renewal or to pay the required fee after such notice shall result in the license being declared inactive and the licensee shall not practice until he or she applies for reinstatement and pays the required fees. The license shall be restored if the application is received within one year of the renewal date.

2. Upon request, the division, in collaboration with the board, may grant inactive status to a licensee, if the person:

(1) Does not hold himself or herself out as possessing a license required under sections 324.808 to 324.845 in this state;

(2) Maintains any continuing competency requirements established by the division, in collaboration with the board; and

(3) Remits any fee that may be required.

324.835. 1. The board may refuse to issue or renew any license required under sections 324.808 to 324.845 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 324.808 to 324.845 or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of an electrician;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated by sections 324.808 to 324.845, for any offense an essential element of which is fraud, dishonesty, or an act of

violence, or for any offense involving moral turpitude, regardless of whether a sentence is imposed;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any license issued under sections 324.808 to 324.845 or in obtaining permission to take any examination given or required under sections 324.808 to 324.845;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions and duties of any profession licensed or regulated by sections 324.808 to 324.845;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.808 to 324.845 or any lawful rule or regulation adopted under sections 324.808 to 324.845;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 324.808 to 324.845 granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.808 to 324.845 who is not licensed and currently eligible to practice under sections 324.808 to 324.845;

(11) Issuance of a license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Unethical conduct as defined in the ethical standards adopted by the division and filed with the secretary of state;

(15) Violation of the drug laws or rules and regulations of this state, any other state, or federal government.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or may revoke the license, certificate, or permit.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 324.808 to 324.845 relative to the licensing of the applicant for the first time.

324.840. 1. Any person or corporation who knowingly violates any provision of sections 324.808 to 324.845 is guilty of a class B misdemeanor.

2. Any officer or agent of a corporation or member or agent of a partnership or association, who knowingly and personally participates in, or is an accessory to, any violation of sections 324.808 to 324.845 is guilty of a class B misdemeanor.

3. The provisions of this section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state.

4. The division, in collaboration with the board, may cause a complaint to be filed for any violation of sections 324.808 to 324.845 in any court of competent jurisdiction and perform such other acts as may be necessary to enforce the provisions of sections 324.808 to 324.845.

324.845. The provisions of sections 23.250 to 23.298, RSMo, shall not apply to the provisions of sections 324.808 to 324.845.

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